

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Case Nos: 15-46 & 15-49 (MJD)

UNITED STATES OF AMERICA,

Plaintiff,

V.

HAMZA NAJ AHMED (1)

ADNAN ABDIHAMID FARAH (3)

ZACHARIA YUSUF ABDURAHMAN (5)

HANAD MUSTAFE MUSSE (6)

and

ABDULLAHI MOHAMUD YUSUF (1),

Defendants.

**JOINT SENTENCING
MEMORANDUM OF:**

HAMZA NAJ AHMED

ADNAN ABDIHAMAD FARAH

ZACHARIA YUSUF ABDURAHMAN

HANAD MUSTAFE MUSSE &

ABDULLAHI MOHAMUD YUSUF

INTRODUCTION

The above-named defendants respectfully submit this joint sentencing memorandum which contains pertinent background information concerning the organization commonly known as ISIL. Beyond this joint pleading, each defendant will submit individual sentencing position papers.

I. THE ISLAMIC STATE OF IRAQ AND THE LEVANT (ISIL)

A. Beliefs and Practices of ISIL

The Islamic State of Iraq and the Levant (“ISIL”) is an extremist, fundamentalist group of Sunni Muslims furthering a brutal interpretation of Islam. In June, 2014, the group formally shifted from an insurgency which had seized a large portion of territory in Iraq and Syria to an organization purporting to be an Islamic “caliphate” – a theocratic pseudo-state ruled by a caliph, someone claimed to be a direct successor to the Prophet Mohammed.¹

Though ISIL is a designated foreign terrorist organization, it is distinct from traditional terrorist groups in that it holds territory and has purported to establish a state in that territory. ISIL has a structure of rules based on Sharia law. It also contains a series of organizations which support its state-building efforts, including a basic civil bureaucracy,² Sharia schools (which also function as recruitment centers),³ and “Hisbah”, Islamic morality police who strictly enforce Sharia law. Political and religious dissent in the caliphate are not tolerated.⁴

¹ Daniel Byman, *Understanding the Islamic State – A Review Essay*, 40 INT’L SECURITY No. 4, pp. 136-37 (Spring 2016), available at http://www.mitpressjournals.org/doi/abs/10.1162/ISEC_r_00235?journalCode=isec#.V5fRLfmANB (hereinafter Byman).

² See, e.g., Byman p. 152

³ Byman at p. 142

⁴ Tim Arrango, *ISIS Transforming into Functioning State That Uses Terror as Tool*, New York Times, July 21, 2015, available at http://www.nytimes.com/2015/07/22/world/middleeast/isis-transforming-into-functioning-state-that-uses-terror-as-tool.html?_0.

ISIL's primary goal is to expand the territory of the caliphate through aggressive jihad; "Islamic State's slogan is *baqiya wa tatamaddad* (remaining and expanding)"⁵. To achieve this, ISIL is in, and plans to continue to be in, a state of perpetual war.⁶ "[T]hey are deadly serious regarding the task of their caliphate: war against the non-Islamic world until the latter is defeated . . . [T]he sense of forward momentum is necessary to keep the foreign volunteers coming and the monetary contributions flowing."⁷ And the foreign volunteers have flowed readily – about 30,000 people had traveled to join ISIL by late 2015.⁸

ISIL has an incredible number of enemies. It most aggressively opposes not the United States and other Western nations, but Shi'ite Muslims and the Syrian Assad regime.⁹ ISIL targets these and other groups fiercely, including, kidnappings for ransom,¹⁰ the use of child soldiers,¹¹ suicide bombings and other terror attacks on civilians, attacks on the press, individual and mass executions,¹² the systematic rapes and forced abortions of Yazidi minorities,¹³ and the attempted ethnic cleansing of groups, including other Muslims and Christians.¹⁴

⁵ Jonathan Spyer, *The Changing ISIS Threat*, Apr. 23, 2016, available at <https://jonathanspyer.com/2016/04/23/the-changing-isis-threat>. (hereinafter Spyer)

⁶ Byman at pp. 136, 153

⁷ Spyer

⁸ The Soufan Group, *Foreign Fighters: An Updated Assessment of the Flow of Foreign Fighters into Syria and Iraq*, December 2015, available at http://soufangroup.com/wp-content/uploads/2015/12/TSG_ForeignFightersUpdate3.pdf.

⁹ See, e.g., Byman at pp. 130, 153

¹⁰ Lister, Tim

¹¹ Erin McLaughlin, *How ISIS recruits children, then kills them*, CNN, Feb. 22, 2016, available at <http://www.cnn.com/2016/02/19/middleeast/isis-child-soldiers/>

¹² Byman at p. 143

¹³ Byman at p. 141

¹⁴ AMNESTY INT'L, *Ethnic Cleansing on a Historic Scale*, 2014, available at <https://www.amnesty.org/en/documents/MDE14/011/2014/en/>

Despite these evils, ISIL is a strategic, clever organization. ISIL's tactics are designed to terrorize others to engender respect and fear, and to push satisfied, westernized Muslims away from society and towards radicalism.¹⁵ The Western Islamic community has widely, though not unanimously, condemned and rejected ISIL's siren song.¹⁶

B. History of ISIL

1. Origins and Al-Qaeda in Iraq

Though the group took its present form in June 2014, the group now known as ISIL's roots go back to an earlier organization, Jama'at al-Tahwide w'al Jihad.¹⁷ In 1999, a Jordanian militant, Abu Masab al-Zarqawi, was released from prison and became affiliated with Al-Qaeda, then led by Osama bin Laden.¹⁸ After the United States unseated the Taliban, Zarqawi fled to Iran. By the time of the 2003 United States attack, he had resurfaced in Iraq.¹⁹

Zarqawi prepared and organized insurgent networks to fight America and later the transitional Iraqi government.²⁰ In 2004, Zarqawi pledged loyalty to bin Laden and renamed his group Al-Qaeda in Iraq (AQI).²¹ After the United States overthrew Saddam Hussein's Baathist regime and installed a democratic government, many formerly

¹⁵ Alami

¹⁶ Emily Feldman, *How Muslim Groups, Scholars Have Been Fighting ISIS*, NBC NEW YORK, Dec. 10, 2015, available at <http://www.nbcnewyork.com/news/national-international/Muslim-Scholars-Grouis-Against-ISIS-Speal-Out-361309791.html>

¹⁷ Bobby Ghosh, *ISIS: A Short History*, THE ATLANTIC, Aug. 14, 2014, available at <http://www.theatlantic.com/international/archive/2014/08/isis-a-short-history/376030> (hereinafter Ghosh)

¹⁸ Byman at p.131; Ghosh

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at p. 131-32

empowered Baathist Sunni Muslims were displaced and radicalized.²² This is especially true for Hussein's former military members.²³ Zarqawi himself fostered the chaos by, early on, bombing the United Nations headquarters in Baghdad, the Jordanian embassy there, and assassinating a leading moderate Shiite cleric.²⁴ Zarqawi's attacks were believed to be strategic and purposeful with the goals of isolating Iraq in the Arab world and encouraging a sectarian war.²⁵

Likewise, during this time the organization became more demanding upon other Muslims, requiring other Iraq Sunnis to "submit to [Zarqawi's] harsh interpretation of sharia law [...] Those who resisted, even prominent figures in the community, were executed."²⁶ Al-Zarqawi advocated three core, interconnected ideas: "ideology understood through tactics, anti-Shi'ism; and foreign recruitment."²⁷

2. Islamic State in Iraq

Shortly after Zarqawi's 2006 death, AQI rebranded itself as ISI, Islamic State in Iraq.²⁸ The organization's fundamentalist ideals and brutal tactics persisted through the rebranding,²⁹ but ISI had a distinct goal – to create a self-governing caliphate.³⁰ After its

²² *Id.*

²³ *Id.* at p.132; Ghosh

²⁴ Byman at p.132

²⁵ Byman at p.132

²⁶ Ghosh

²⁷ Isaac Kfir, *Social Identity Group and Human (In)Security: The case of Islamic State in Iraq and the Levant (ISIS)*, September 8, 2014, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2493209

²⁸ Byman p.132

²⁹ Byman p.131

³⁰ Byman p.132

rebranding as ISI, the organization began to hold territory in a more formal sense. At its zenith, its territory held about 8 million people, willing and unwilling, in its jurisdiction.³¹

However, ISI experienced backlash from Sunni militia, local tribes, and the United States military, and lost most of its power base and shrunk. After a period of time it “became irrelevant.”³² This persisted until about 2011 under ISI’s new leader, Abu Bakr Al-Baghdadi.³³ “Baghdadi took Zarqawi’s tactics and supercharged them. The Shiites were still his main targets, but now he sent suicide bombers to attack police and military offices, checkpoints, and recruiting stations (Civilian targets remained fair game.)”.³⁴ Al-Baghdadi also exploited unpopular policies of Iraq’s Prime Minister (Nouri al-Maliki) who put in policies which disfavored Sunni Muslims. Al-Baghdadi and the ISI were able to frame al-Maliki’s rule as an existential threat to Sunni Muslims and began consolidating power again.³⁵

3. Interaction with Nusra Front in Syria

The next major step forward for ISI was when it became involved in Syria’s post-2011 collapse. ISI jumped into the war, initially as a supporter of the Nusra front in Syria, which was fighting against the controversial President Assad.³⁶ In 2013, ISIL either “merged with” or “took over” the Nusra front and rebranded itself as either the Islamic

³¹ David Rose, *How does ISIS fund its reign of terror?*, NEWSWEEK, Nov. 14, 2014, available at <http://www.newsweek.com/2014/11/14/how-does-isis-fund-its-reign-terror-282607.html>.

³² Byman p.132-33

³³ Byman p.133

³⁴ Ghosh

³⁵ Byman p.133-34

³⁶ Byman p.135; Ghosh

State of Iraq and the Levant, ISIL (or the Islamic State of Iraq and Syria, ISIS).³⁷ In doing so, ISI and Al-Qaeda had a falling out, which included attacks on each other.³⁸

In 2014 ISIL again attempted to rebrand itself, this time as simply the “Islamic State.” ISIL saw itself as a worldwide organization, not one limited to Iraq and Syria.³⁹ Around this time, ISIL increased its foreign recruitment efforts, particularly from other areas of the Middle East.⁴⁰ In total, by the end of 2015, roughly 30,000 people were estimated to have traveled from a foreign country to join ISIL.⁴¹

4. Recent Decline

The international community, including the United States, has strongly opposed ISIL. As the United States Defense Secretary Ash Carter noted, “[a]t every step in the campaign, we have generated and seized additional opportunities to hasten ISIL’s lasting defeat.”⁴² ISIL has recently been struggling, both militarily and in its financial and recruitment capacities.

Militarily, ISIL has been struggling to fight against the numerous groups supporting the Baathist Syrian president, Bashar al-Assad, while simultaneously being devastated by air strikes from both a U.S.-led coalition and from Russia.⁴³ The coalition, which includes the United States, Australia, Belgium, Canada, Denmark, France, Jordan, and the

³⁷ Byman p.135

³⁸ *Id.*

³⁹ *Id.* at p.136.

⁴⁰ See The Soufan Group at p.6; Byman 146-47

⁴¹ The Soufan Group

⁴² Rebecca Kheet, *Analysis: ISIS loses another 12 percent of territory*, July 11, 2016, available at

<http://thehill.com/policy/defense/287205-report-isis-losses-another-12-percent-of-territory>.

⁴³ BBC, 22 June 2016, *Islamic State group: Crisis in seven charts*, available at <http://www.bbc.com/world-middle-east-27838034>

Netherlands, launched nearly 13,000 air strikes against the Islamic State across both Iraq and Syria from August 2014 to June 2016.⁴⁴ The United States publicly estimated, in June 22, 2016, that its air strikes have killed a total of 25,000 ISIL fighters.⁴⁵ Russia's airstrikes have likewise been frequent and devastating.⁴⁶

This coordinated effort, along with domestic problems for ISIL, has caused a substantial decline in its territory and has caused economic hardship for ISIL. The organization IHS reported ISIL "consistently lost territory month-on-month throughout 2015" – and, over the calendar year, lost roughly 14% of its geographical territory.⁴⁷ The same organization later reported that ISIL territory shrunk a further 12% during the first half of 2016.⁴⁸

Critically, to exist in its current form, ISIL has had to raise money from a variety of sources. These include lootings, seizures, traditional taxes, special taxes on certain groups of non-believers, oil sales, and kidnappings and ransoms.⁴⁹ ISIL's ability to raise money

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

<https://www.theguardian.com/world/2016/mar/15/russian-airstrikes-in-syria-killed-2000-civilians-in-six-months>

⁴⁷ *Islamic State's Caliphate Shrinks by 14 Percent in 2015*, IHS MARKIT, Dec. 21, 2015, available at

<http://press.ihs.com/press-release/aerospace-defense-security/islamic-states-caliphate-shrinks-14-percent-2015>

⁴⁸ *Islamic State Caliphate Shrinks a Further 12 Percent in 2016, IHS Says*, IHS MARKIT, July 10, 2016, available at

<http://press.ihs.com/press-release/aerospace-defense-security/islamic-state-caliphate-shrinks-further-12-percent-2016-ihs>

⁴⁹ Tim Lister, *Is ISIS going broke?*, CNN, June 29, 2016, available at

<http://www.cnn.com/2016/03/04/middleeast/isis-finance-broke-lister> (hereinafter Lister, Tim); Mona Alami, *Is ISIS Decentralizing?*, ATLANTIC COUNCIL, Mar. 25, 2016, available at <http://www.atlanticcouncil.org/blogs/meansources/is-isis-decentralizing> (hereinafter Alami)

has been recently hamstrung for a variety of reasons, including (1) the organization has not been able to maintain its rate of seizing others' assets, (2) the organization's ability to extract oil and sell it has been marginalized, (3) the organization is not politically conducive to functioning modern businesses and (4) the war has taken a toll on ISIL's capabilities – particularly the U.S.-led coalition's targeted bombings, nicknamed “Tidal Wave II” – which have attacked both ISIL's funding sources and manpower.⁵⁰

These factors have led to low morale amongst ISIL's soldiers. In January 2016, it was widely reported that ISIL slashed the salaries of its fighters by half.⁵¹ In July 2016, ISIL executed 35 of its fighters who refused to be redeployed.⁵² The organization killed another 21 who were fleeing from ongoing battles.⁵³ A number of other fighters – at least 40 – defected from ISIL near Aleppo.⁵⁴

Earlier this year, it appeared that a ceasefire in Syria might have slowed some of the turmoil surrounding ISIL. But that ceasefire quickly unraveled.⁵⁵ ISIL recently lost control of Dabiq – a city with substantial religious and strategic significance to the organization.⁵⁶ The combat and unrest continues, with ISIL weakening, but no end immediately apparent.

⁵⁰ Lister, Tim; Alami

⁵¹ Alami

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ See, e.g., Associated Press, *As cease-fire ends, ISIS advances on Palmyra in Syria*, CBS NEWS, available at

<http://www.cbsnews.com/news/as-cease-fire-ends-isis-advances-palmyra-syria/>

⁵⁶ Anne Barnard, *After Losses in Syria and Iraq, ISIS moves the goal posts*, NEW YORK TIMES, Oct. 18, 2016, available at

http://www.nytimes.com/2016/10/19/world/middleeast/islamic-state-syria-iraq.html?_r=0

II. ISIL'S USE OF SOPHISTICATED PROPAGANDA

One of the most remarkable and unprecedented features of ISIL's strategic operations is its intensive and sophisticated use of social media to recruit new members and supporters. On a variety of social media platforms, ISIL has engaged in an international propaganda campaign, featuring glossy online magazines, videos with high production values, drone images, and multi-lingual, easily-relayed messages – propaganda efforts President Obama has acknowledged are “designed to target today's young,” especially “those who may be disillusioned or wrestling with their identity.”⁵⁷

At its heart, this propaganda markets a seductive ideology of statehood and citizenship. Writing in the Boston Globe in June 2014, Thanassis Cambanis explains that despite its “repugnant” tactics, ISIL “has gotten one important thing right: It has created a clear – and to some, compelling – idea of citizenship and state-building in a region almost completely bereft of either.”⁵⁸ This message is coupled with a sense of urgency. As psychologist John G. Horgan adds, ISIL is saying to its young audience, “[b]e part of something that's bigger than yourself and be part of it *now*.”⁵⁹ The impact of ISIL's propaganda can be measured in the huge numbers of foreign fighters that have flocked to join insurgent groups in Syria – an estimated 20,000 fighters by early 2015, the

⁵⁷ See Remarks by the President at the Summit on Countering Violent Extremism, February 19, 2015 (hereafter “President Obama CVE Remarks”), available at <https://www.whitehouse.gov/the-press-office/2015/02/19/remarks-president-summit-countering-violent-extremism-february-19-2015>.

⁵⁸ See *The Surprising Appeal of ISIS*, Boston Globe, June 29, 2014.

⁵⁹ See Scott Shane and Ben Hubbard, *ISIS Displaying A Deft Command of Varied Media*, New York Times, August 31, 2014, available at <http://www.nytimes.com/2014/08/31/world/middleeast/isis-displaying-a-deft-command-of-varied-media.html> (“*ISIS Displaying A Deft Command*”) (emphasis added).

overwhelming majority to join ISIL.⁶⁰ As an extensive study by Alberto M. Fernandez (former U.S. Ambassador to Equatorial Guinea) for the Brookings Institution published in October 2015 concludes, “[e]fforts to blunt ISI[L] propaganda have been tentative and ineffective . . . dwarfed by the sheer size of the ISI[L] footprint. No effort to date has matched the tailored nature, the scope, nor the electrifying content of the Islamic State’s material.”⁶¹

A. Sophistication, Diversity, Reach

ISIL’s propaganda strategy is not unique to ISIL, its forebear Al-Qaida, or terrorist groups in general. In fact, Al-Qaida leader Ayman Al-Zawahiri claimed half of his organization’s battle was “taking place in the battlefield of the media.”⁶² But, as experts acknowledge, the quality, quantity and reach of ISIL’s media warfare is extraordinary. As the Syrian war escalated and Islamic State became ISIL, its brand of propaganda emerged: “a focus on Syria, high quality production values, an emphasis on social media networks and an appeal to a wider, pan-Islamic and non-Arabic speaking audience.”⁶³ Harnessing

⁶⁰ Peter Neumann, “*Foreign Fighter Total in Syria/Iraq Now Exceeds 20,000; Surpasses Afghanistan Conflict in the 1980s*,” The International Centre for the Study of Radicalisation and Political Violence, January 26, 2015, <http://icsr.info/2015/01/foreign-fighter-total-syriairaq-now-exceeds-20000-surpasses-afghanistan-conflict-1980s>.

⁶¹ Alberto M. Fernandez, *Here to Stay and Growing: Combating ISIS propaganda Networks*, The Brookings Project on U.S. Relations with the Islamic World U.S.-Islamic World Forum Papers 2015, October 2015, at 1, available at https://www.brookings.edu/wp-content/uploads/2016/06/IS-Propaganda_Web_English.pdf (“Brookings Report”).

⁶² Ayman Al-Zawahiri, *Letter from Al-Zawahiri to Al-Zarqawi*, Global Security, October 11, 2005, http://www.globalsecurity.org/security/library/report/2005/zawahiri-zarqawi-letter_9jul2005.htm.

⁶³ Brookings Report at 6.

the “free-wheeling, decentralized nature”⁶⁴ of YouTube, Twitter, Instagram, Facebook, among other social media platforms, one writer has termed ISIL’s “war of ideas”⁶⁵ as “high-tech media jihad.”⁶⁶ As Ambassador Fernandez puts it, “[j]ust as ISIS took advantage of ungoverned space in war-torn parts of Iraq and Syria, it also took advantage of ‘ungoverned’ virtual space.”⁶⁷

Along with its flagship online magazine, “Dabiq,” ISIL produces and disseminates powerful and emotional videos and images. They depict its members as dedicated and fearsome warriors;⁶⁸ they highlight the ravages of the Syrian war, particularly on children;⁶⁹ and they illustrate ISIL’s role not just as combatant, but also as nation-builder.⁷⁰ ISIL’s prodigious media output juxtaposes images of battle, gore and executions with warmer images of “foot soldiers eating Snicker’s bars and nurturing kittens,” aimed to “communicate the message that, while strictly Islamic, ISI[L] stands for

⁶⁴ Brookings Report at 12.

⁶⁵ James P. Farwell, *Jihadi Video in the “War of Ideas,”* Survival, Vol. 52, No. 6, December 2010-January 2011, pp. 127-150.

⁶⁶ Alex Marshall, *How Isis Got its Anthem*, The Guardian (US edition), November 9, 2014, available at <http://www.theguardian.com/music/2014/nov/09/nasheed-how-isis-got-its-anthem>.

⁶⁷ Brookings Report at 12.

⁶⁸ James P. Farwell, *The Media Strategy of ISIS*, Survival, Vol. 56, No. 6, December 2014, 2015, p. 50 (December 2014 – January 2015) (“*The Media Strategy of Isis*”).

⁶⁹ See, e.g., Katrin Bennhold, *Jihad and Girl Power: How ISIS Lured 3 London Girls*, New York Times, August 17, 2015, available at http://www.nytimes.com/2015/08/18/world/europe/jihad-and-girl-power-how-isis-lured-3-london-teenagers.html?_r=0.

⁷⁰ See Dominic Casciani, *IS Propaganda Pushes State-Building, Quilliam Study Finds*, BBC, October 6, 2015, available at <http://www.bbc.com/news/world-34448557>; Charlie Winter, *Fishing and Ultraviolence: So-Called Islamic State Is Known for its Brutality . . . But It's Also Hooking People in Far Subtler Ways*, BBC, October 6, 2015, available at <http://www.bbc.co.uk/news/resources/1dt-88492697-b674-4c69-8426-3edd17b7daed> (“Fishing and Ultraviolence”).

promoting the welfare of people, not murdering them.”⁷¹ With meticulous execution, it exploits the “echo chambers” of social media, in which users end up self-selecting their own nuance-free virtual existence.⁷²

The group’s use of Twitter – with its advantages of speed, volume and the ability to tailor a message to a specific audience through hashtags – has been particularly effective. ISIL has an Arabic-language Twitter application called “The Dawn of Glad Tidings,” which facilitates retweeting of ISIL-generated hashtags through thousands of activists, while simultaneously avoiding triggering Twitter’s spam-detective algorithms.⁷³ When ISIL marched on Mosul, its members produced up to 44,000 tweets a day.⁷⁴ Using Twitter hashtags like #Baghdad_is_liberated and #Iraq_is_liberated and professional, multi-lingual or subtitled promotional videos, ISIL urged support for its “one billion campaign,” which called on Muslims to post messages, photos and videos on Twitter, Instagram and YouTube in support of ISIS.⁷⁵ During the World Cup, ISIL’s media operation creatively used hashtags such as #Brazil2014, #ENG, #France and #WC2014 to gain access to millions of Twitter users who were World Cup fans, in the hope that they would follow links to the group’s propaganda videos.⁷⁶

⁷¹ *The Media Strategy of ISIS* at 50.

⁷² *Fishing and Ultraviolence*, *supra*.

⁷³ J.M. Berger, *How ISIS Games Twitter*, Atlantic, 16 June 2014, available at www.theatlantic.com/international/archive/2014/06/isis-iraq-twitter-social-media-strategy/372856/.

⁷⁴ *Id.*

⁷⁵ Faisal Irshaid, *How Isis is Spreading its Message Online*, BBC News, 19 June 2014, available at www.bbc.co.uk/news/world-middle-east-27912569.

⁷⁶ Cahal Milmo, *Isis Jihadists Using World Cup and Premier League Hashtags to Promote Extremist Propaganda on Twitter*, Independent, 23 June 2014, available at www.independent.co.uk/news/world/middle-east/iraq-crisis-exclusive-isis-jihadists-using

Charlie Winter, a researcher with the Quilliam Foundation, analyzed ISIL's propaganda output for one month in mid-2015. What he found was startling even to seasoned observers of ISIL's media usage: In just 30 days, ISIL's official propagandists created and disseminated 1,146 separate units of propaganda in six languages, 892 units when grouping the different language versions. They included photo essays, videos, audio statements, radio bulletins, text round-ups, magazines, posters, pamphlets, and theological treatises, all "uniformly presented and incredibly well-executed, down to the finest details."⁷⁷ Along with the usual depictions of "civilian life, military pursuits, victimization, ultraviolence, instances of mercy and hints at the camaraderie IS[IL]'s foreign fighters enjoy," these postings stressed the idea of utopia: "social justice, economy, religious 'purity' and the constant expansion of the caliphate."⁷⁸ The content was "voluminous" and "truly relentless," causing Winter to conclude that "the secret of the IS media strategy" was to "produce, produce, produce . . . overaw[ing] and overwhelm[ing] their adversaries while at the same time luring the curious and vulnerable."⁷⁹

Civilian life was juxtaposed with military-themed output on a 2:1 ratio: "Photo essays depicting melon agriculture, handicrafts and industry, wildlife, cigarette confiscations and street cleaning were disseminated on an almost like-for-like basis alongside sets of images showing balaclava-wearing IS fighters firing mortars into the

-world-cup-and-premier-league-hashtags-to-promote-extremist-propaganda-on-twitter-9555167.html.

⁷⁷ See *Fishing and Ultraviolence*, *supra*; see also Charlie Winter, *Documenting the Virtual Caliphate*, Quilliam 2015, available at

<http://www.quilliamfoundation.org/wp/wp-content/uploads/2015/10/FINAL-documenting-the-virtual-caliphate.pdf>.

⁷⁸ *Fishing and Ultraviolence*, *supra*.

⁷⁹ *Id.*

distance, defiling large piles of dead ‘enemies’ and gloating over booty.”⁸⁰ Amid this constant juxtaposition of civilian and military life, the propagandists continuously played upon the victimhood narrative, “routinely parad[ing] dead or maimed children, women and old people before cameras as they sought to maximize the political value of the collateral damage caused by enemy air strikes.”⁸¹ These images were “used to both legitimize the existence of IS[IL]’s self- proclaimed caliphate and justify the innumerable crimes of its active members.”⁸²

Describing ISIL’s caliphate brand as “comprehensive,” with “something for everyone,” Winter observes that the footage he analyzed in mid-2015 diverged from similar footage in 2014: “in stark contrast to the norms that I had noted over the course of the inaugural year of the IS ‘caliphate’ – very little time was devoted to conveying the ideas of mercy and belonging, both of which had once been a mainstay of IS[IL]’s public diplomacy.”⁸³ Thus, the ISIL propaganda being disseminated to the defendants in this case (all of whom were in custody or had abandoned their ISIL ambitions by May 2015) was the content that emphasized mercy, belonging and camaraderie.

B. The Seductive Power of ISIL’s Message

At the core of ISIL’s successful propaganda efforts is a powerful message to pan-Muslim and pan-Arabic youth across the world: ISIL embodies not only the one true vision of Muslim identity; it has the capacity to enshrine it in a sustainable concept of Islamic nationhood. Layered onto this message is one of urgency and obligation: ISIL

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

exhorts all Muslims that battling to restore a Caliphate (a form of Islamic government led by a Caliph) is a religious and an immediate duty. This battle is framed in apocalyptic terms, focused on the boundaries drawn in the Middle East by Western powers after World War I, partitions that ISIL argues were “a divide-and-conquer strategy intended to prevent Muslims from unifying ‘under one imam carrying the banner of truth.’”⁸⁴ Through its capture of territory, its military might, and the lucrative spoils of war, ISIL claims its ability to right these historical grievances, “creating a unified Muslim state that will subsume existing nations.”⁸⁵ ISIL’s narrative emphasizes ISIL’s historical justification, military advances, governmental consolidation, and march to inevitable victory. As ISIL puts it in an early article in *Dabiq* in 2014:

Raise your head high, for today – by Allah’s grace – you have a state and Khilafah, which will return your dignity, might, rights, and leadership. It is a state where the Arab and non-Arab, the white man and black man, the easterner and westerner are all brothers.⁸⁶

In his extensive analysis of ISIL propaganda for the Brookings Institution, Ambassador Fernandez identifies several key themes in ISIL’s media output, echoed in the work of other experts:

- **Urgency.** This is “one of the few words” that sums up hundreds of hours of ISIS propaganda footage. (Sunni Arab) Muslims are being slaughtered now, primarily by Shiites, and Syria’s children are being killed by apostates. The call echoes the long-standing grievances perpetrated against “true” Muslims by outside enemies.⁸⁷

⁸⁴ *ISIS Displaying A Deft Command, supra.*

⁸⁵ *Id.*

⁸⁶ Haroro J. Ingram, *An Analysis of Islamic State’s Dabiq Magazine*, Australian Journal of Political Science, March 2016, at 13, available at <http://dx.doi.org/10.1080/10361146.2016.1174188>.

⁸⁷ Brookings Report at 11.

- **Agency.** ISIL exhorts the Muslim viewer to do something now to save the Muslims, “it is up to you,” a call that is akin to a “religious duty.” Citing Thomas Hegghammer, the Brookings Report notes “a growing number of micro-level studies of jihadi recruitment downplays the role of doctrine and emphasizes proximate incentives involving emotions: the pleasure of agency, the thrill of adventurism, the joy of camaraderie, and the sense of living an ‘authentic Islamic life.’”⁸⁸ The Muslim individual “is called to ask himself if he is one of the ‘suitable bricks’ for the ‘blessed structure’ which is the Islamic State.”⁸⁹
- **Authenticity.** An individual finds his authenticity in joining ISIL – fulfillment being his “in the authenticity of the organization he is joining,” the extremity and harshness of which “is actually further proof of its sincerity.”⁹⁰ Fernandez goes on to note in the Brookings Report that political critics “often falsely assume that the extreme violence of ISIS is nihilistic, but in fact, it has a very clear stated purpose, which is to bring about something longed for and not seen for many years” – the Islamic State.⁹¹
- **Victory.** ISIL is marching towards victory; it is “here to stay and growing,” expressed both in footage of actual military victories (Fallujah, Mosul, or Sinjar,), but also in “other displays of power and impunity,” including public beheadings, the destruction of idols, and “the display of state-like qualities such as currency and passports.”⁹²

It is this focus on the universal ideal of belonging and statehood that is at the heart of ISIL’s appeal – particularly, as President Obama has noted, to disaffected and alienated Muslim youth across the world. In his remarks at White House Summit on Countering Violent Extremism on February 19, 2015, the President noted:

⁸⁸ *Id.* citing Thomas Hegghammer, *Seven Assumptions Shaken by the Arab Spring*, Project on Middle East Political Science, February 3, 2014, available at <http://pomeps.org/2014/02/03/jihadism-seven-assumptions-shaken-by-the-arab-spring/>.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.* at 11-12.

⁹² *Id.* at 12.

[W]e must address the grievances that terrorists exploit, including economic grievances. As I said yesterday, poverty alone does not cause a person to become a terrorist, any more than poverty alone causes someone to become a criminal . . .

But when people – especially young people – feel entirely trapped in impoverished communities, where there is no order and no path for advancement, where there are no educational opportunities, where there are no ways to support families, and no escape from injustice and the humiliations of corruption – that feeds instability and disorder, and makes those communities ripe for extremist recruitment. And we have seen that across the Middle East and we’ve seen it across North Africa. So if we’re serious about countering violent extremism, we have to get serious about confronting these economic grievances.⁹³

To young impressionable minds experiencing alienation from the dominant culture around them, ISIL’s message – albeit accompanied by tactics that are disturbing to many – offers an opportunity of identity. As Peter Neumann, Director of the International Centre for the Study of Radicalization in London (“ICSR”), argues: “if you are a Brit or a French guy who has no family connection to Syria, you’re not wanting to fight for the Syrian people ... The reason you’re going there is because you see Syria as essentially the cent[er] of gravity or the potential birthplace for that Islamic state that you’re hoping to create.”⁹⁴

Notably, in an extensive review of ISIL’s propaganda, the New York Times concluded in August 2014, that it contained “strikingly few calls for attacks on the west.”⁹⁵ Rather, nearly all of ISIL’s varied output “promotes its paramount goal: to secure and expand the Islamic State.”⁹⁶

⁹³ See President Obama CVE Remarks.

⁹⁴ See Agence France-Presse, *ISIL chief poised to become world’s most influential militant?*, The National, Jun. 5 2014, available at <http://www.thenational.ae/world/middle-east/isil-chief-poised-to-become-worlds-most-influent-militant>.

⁹⁵ See *ISIS Displaying A Deft Command*, *supra*.

⁹⁶ *Id.*

C. Failure of Counter-Messaging

Experts are in agreement that efforts to counter ISIL messaging, at least up to the end of 2015, were ineffective. It was not just that these efforts were no match for the sheer volume of ISIL propaganda; they did not convey a coherent and compelling enough counter-narrative.⁹⁷ Ambassador Fernandez, a former head of the U.S. government's counter-messaging headquarters, the Center for Strategic Counterterrorism Communications (CSCC), acknowledged that the counter-messaging efforts of Arab regimes, western European governments, and the United States "have all seemingly failed to substantively blunt ISIS's efforts to recruit over social media."⁹⁸ In fact, early this year, in the face of "faltering efforts to combat the online propaganda of the Islamic State and other terrorist groups," the United States revamped CSCC, with one U.S. official noting "[w]e're not the most effective messenger for the message we want to get out."⁹⁹

D. Impact

ISIL's propaganda campaign has proved to be remarkably successful, causing thousands of young foreigners to flock to its borders – "the largest mobilization of foreign fighters in Muslim majority countries since 1945."¹⁰⁰ The United States estimated in

⁹⁷ See generally, Charles Winter and Jordan Bach-Lombardo, *Why ISIS Propaganda Works And Why Stopping It Requires that Governments Get Out of the Way*, The Atlantic Monthly, 2/13/2016, available at

<http://www.theatlantic.com/international/archive/2016/02/isis-propaganda-war/462702/>.

⁹⁸ Brookings Report at 16.

⁹⁹ Greg Miller and Karen DeYoung, *Obama Administration Plans Shake-up in Propaganda War Against ISIS*, Washington Post, 1/8/2016, available at https://www.washingtonpost.com/world/national-security/obama-administration-plans-shake-up-in-propaganda-war-against-the-islamic-state/2016/01/08/d482255c-b585-11e5-a842-0feb51d1d124_story.html.

¹⁰⁰ Peter Neumann, *Foreign Fighter Total in Syria/Iraq Now Exceeds 20,000; Surpasses Afghanistan Conflict in the 1980s*, ICSR, 01/26/2015, available at

2015 that between 20,000 and 30,000 foreign fighters have travelled to Syria and Iraq between 2011 and 2014.¹⁰¹ In May 2015, a senior state department official estimated that the group had attracted more than 22,000 foreign recruits from more than 100 countries.¹⁰² A number of these – exact statistics are unavailable – have traveled from the United States.¹⁰³

The ICSR estimated in 2015 that more than 25% have returned.¹⁰⁴ Analyses of the perspectives of returned ISIL recruits are still under way, but the studies that do exist indicate a profound level of disillusionment. A report by the ICSR interviewed 58 returnees willing to describe their experiences. The New York Times summarized their testimony as follows:

[S]ome of the defectors said they disapproved of the Islamic State's hostility to other Sunni rebel groups that opposed President Bashar al-Assad in Syria, and its indiscriminate killings of civilians and hostages. Others grew weary of what they saw as favoritism and mistreatment by commanders, or were disappointed that the life of a militant was far less exciting, or lucrative, than they had imagined. Two left after they found out that they had been selected as suicide bombers.¹⁰⁵

<http://icsr.info/2015/01/foreign-fighter-total-syriairaq-now-exceeds-20000-surpasses-afghan-istan-conflict-1980s/>.

¹⁰¹ See United Nations Meetings Coverage and Press Releases, *Action Against Threat of Foreign Terrorist Fighters Must Be Ramped Up, Security Council Urges in High-Level Meeting*, May 29, 2015, available at <http://www.un.org/press/en/2015/sc11912.doc.htm>.

¹⁰² See State Department *Background Briefing on Iraq*, May 20, 2015, available at <http://www.state.gov/r/pa/prs/ps/2015/05/242665.htm>.

¹⁰³ See Anna Altman, *How Many Foreign Fighters Have Joined ISIS?*, New York Times, September 16, 2014, available at <http://op-talk.blogs.nytimes.com/2014/09/16/how-many-foreign-fighters-have-joined-isis/>.

¹⁰⁴ Kimiko De Freytas-Tamura, *ISIS Defectors Reveal Disillusionment*, New York Times, September 20, 2015, available at <http://www.nytimes.com/2015/09/21/world/europe/isis-defectors-reveal-disillusionment.html>.

¹⁰⁵ *Id.*

Peter Neumann, director of the ISSR explained why the stories of these defectors matter:

The defectors' very existence shatters the image of unity and determination that the group seeks to convey. Their narratives highlight the group's contradictions and hypocrisies. Their example may encourage others to follow, and their credibility can help deter wannabes from joining.

In my view, governments and civil society should recognize the defectors' value and make it easier for them to speak out. Where possible, governments should assist them in resettlement and ensure their safety. They also need to remove legal disincentives that prevent them from going public.

Not every defector is a saint, and not all of them are ready or willing to stand in the public spotlight. But their voices are strong and clear: "The Islamic State is not protecting Muslims. It is killing them." They need to be heard.¹⁰⁶

III. ISIS RECRUITMENT OF YOUNG SOMALIS¹⁰⁷ LIVING IN THE UNITED STATES

As a general matter, immigrants who achieved financial success in the United States were those who found a way to insinuate themselves into what is considered mainstream culture. Somali immigrants have had difficulty making that transition partly because they live in isolated, mostly Somali, communities. They surround themselves with people who share their religion, language and culture which allows them to remain at arm's length from American society. Somali children have said that they feel torn -- they are expected to act American at school or at work, but are required to be wholly Somali in their own homes. As a result, Somali youth find themselves straddling two worlds -- one Somali and another

¹⁰⁶ Peter Neumann, *ICSR Report – Victims, Perpetrators, Assets: The Narratives of Islamic State Defectors*, ICSR Website (introductory comment), 12/10/2015, available at <http://icsr.info/2015/10/icsr-report-victims-perpetrators-assets-narratives-islamic-state-defectors/>.

¹⁰⁷ This section discusses the research on the lives and dislocations experienced by Somali-American youth in the United States, but it should be noted that this research is of equal applicability to young men of other East-African heritage as well.

American -- not fully fitting into either.

Identity confusion is part and parcel of adolescence, but for young Somalis in this country it is doubly difficult as they are forced to come of age at a cultural remove. Experts who have studied the problem have determined this makes these young people particularly vulnerable to recruiters (and friends) who take advantage of their discomfort. Violent extremist recruiters provide concrete - and often simple - answers to complex questions about how a young person, typically a young man, can find his place in the world. The facile prescriptions recruiters provide are accepted without question or reservation because they seem to make sense of an otherwise convoluted awareness of self. That is why the most effective deradicalization programs for terrorism recruits tend to include not just a better understanding of the tenets of Islam, but also the creation of a positive identity for young Somalis that permits them to better navigate other societal problems they might encounter in their day to day lives -- problems like islamophobia and racism.

A. Brief History of the Somali Exodus

The Italians and British ran Somalia until 1960, when the European colonizers summarily left the nation to govern itself. The country became the democratic Somali Republic, but had few of the institutions of government necessary to see nations safely through in a crisis. In 1969, a bodyguard shot and killed the democratically elected president and a military junta installed one of its own: Major-General Mohammed Siyaad Barre. He espoused something he called “scientific socialism,” creating a socialist state that also supported the principles of Islam.¹⁰⁸ Barre’s rule was marked by two decades of

¹⁰⁸ James, George. “Somalia’s Overthrown Dictator, Mohamed Said Barre, Is Dead.” New York Times, January 3, 1995.

violence and tribalism which continues to roil Somalia – and its diaspora community -- today.¹⁰⁹ A report commissioned by the state department and made public in September 1989 said the Somali army “purposely murdered” at least 5000 unarmed civilians over a ten-month period beginning in May 1988 when particularly fierce fighting broke out in the north between government forces and rebels who were calling for a more democratic government. The government denied the allegation.¹¹⁰

Families responded to Barre’s violence by fleeing – those who could not leave themselves sent their children to the west for an education and they became the first wave of Somali immigrants in this country. For those who remained in Somalia, local forms of governance were formed, many of which relied on Sharia courts to provide legal and charitable services.¹¹¹ Relative calm ensued, which convinced many Somalis that “Islamic governance was the solution to Somalia’s crisis.”¹¹²

Barre was overthrown on December 30, 1990, and by early 1991 the Somali infrastructure began to unravel. Civil war ensued and the resulting violence, famine and general upheaval caused Somali culture to become more religiously conservative.¹¹³ Somalis with money or international connections emigrated to other countries, but those

¹⁰⁹ Mulligan, Scott. *Radicalization Within the Somali-American Diaspora: Countering the Homegrown Terrorist Threat. Master’s Thesis at Naval Postgraduate School.* December, 2009. (pp. 20-21)

¹¹⁰ George, NYT.

¹¹¹ Mulligan, p. 24.

¹¹² Richardson, Matthew. *Al-Shabaab’s American Recruits: A Comparative Analysis of Two Radicalization Pathways. M.A. Thesis, University of Texas at El Paso, 2012, (p. 1).*

¹¹³ Boyle, Elizabeth, and Ahmed Ali. Culture, Structure, and the Refugee Experience in Somali Immigrant Family Transformation. *International Migration* 48.1 (2010): 47-79, p. 59.

who did not, a much larger group, headed for the borders as refugees.¹¹⁴ This second wave consisted “largely of Somalia’s rural poor, who bore the brunt of the war-torn country’s failing infrastructure.”¹¹⁵ They “fled with no more than the clothes on their backs, and often suffered great hardship in refugee camps or in the overcrowded homes of relatives already living abroad.”¹¹⁶ According to the U.S. Committee for Refugees (1993) and UNHCR there were some 400,000 Somali refugees in Ethiopia by 1992, and another 320,000 in Kenya. The Kenyan refugee camps provided “poor housing, inconsistent food supplies, inadequate schooling for children, and dangerous conditions.”¹¹⁷ Somalis came to the United States battered and traumatized, and then wrestled with the additional burdens of poverty, Islamophobia and racism.

Somalis have the highest poverty rates of all newcomers to America.¹¹⁸ Many Somali immigrants have “limited language and training skills, and thus have an extremely difficult time joining the labor force for any length of time.”¹¹⁹ For many Somalis, America is the first place they have encountered racism or Islamophobia¹²⁰ and they naturally find psychological security by living in Somali cultural enclaves that are segregated from Western culture.¹²¹ The newcomers tend to congregate in communities

¹¹⁴ Kapteijns, Lidwien and Arman, Abukar (2008) Educating Immigrant Youth in the United States: An Exploration of the Somali Case. *Bildhaan: An International Journal of Somali Studies*: Vol. 4, Article 6. (2008) p. 20.

¹¹⁵ Boyle, p. 51.

¹¹⁶ Kapteijns et al., p. 20.

¹¹⁷ Human Rights Watch. New York. “Somali refugees in Kenya.” (2005).

¹¹⁸ Abdi, Cawo. The Newest African-Americans?: Somali Struggles for Belonging. *Bildhaan: An International Journal of Somali Studies*: Vol. 11, Article 12, 2012. (90-107) p. 90.

¹¹⁹ Abdi, p. 99.

¹²⁰ Mulligan, pp. 41.

¹²¹ Abdi, p. 100.

they can afford and invariably integrate “into the lowest strata in the racial and economic stratification in America.”¹²² They become excluded from the core community because “limited contact across groups entrenches prejudices” and places “them on the margins of mainstream America’s understanding of social rights.”¹²³

Poor as the they are, they are still relatively better off than those left behind in Somalia or refugee camps, so they tend to dispatch what little extra money they have to loved ones in other countries rather than investing in their own futures (education, skills development, better housing, etc.)¹²⁴ The result is a stunting of Somali economic growth, making it hard for those in the community to thrive and progress.

B. Somali Family Life in the United States

1. Household Stressors

Somali family life in the United States is very different than it was in Somalia. Somalia is a patriarchal culture where men are the heads of household and masculinity is often measured by a man’s ability to provide for his family.¹²⁵ Arrival in the U.S. upends this structure. Somali men need to find work,¹²⁶ but a lack of language skills, training and savvy has meant that many in the second wave of Somali immigrants are frequently unemployed or underemployed.¹²⁷ When a Somali man cannot earn enough to support his family, this often causes stress in the household due to lack of respect by his wife and children, especially when the wife works outside the home and derives greater status

¹²² Abdi, p. 98.

¹²³ Abdi, pp. 103-104.

¹²⁴ Abdi, pp. 96-97.

¹²⁵ Boyle et al., p. 69.

¹²⁶ Kapteijns et al., p. 20.

¹²⁷ Boyle et al., p. 68.

within the home.¹²⁸ Boys become men in households where fathers and older brothers are unemployed or underemployed and it can be difficult to envision a future involving college or a professional career.

Another contributor to stress in Somali households in the United States is the transition from “dense networks of relationships into relatively autonomous units.”¹²⁹ For example, in Somalia, the extended family assisted with domestic chores and child-rearing, but also had a role in keeping partners together.¹³⁰ Without those extended families present to help preserve the marriage, Somalis experience higher divorce rates than were seen in Somalia, which has an obvious negative effect on Somali youth.

2. Religious Beliefs

Somalia is almost exclusively Islamic and Somalis find Islam a “critically important source of personal and national identity.”¹³¹ Within the Somali community, Islam provides a wellspring of strength and “often brings out the best in its members, brings and holds them together, and connects them to a national and transnational community of Muslims.”¹³²

Islam is also a tool for “insulating members of their community from what they see as the negative effects of Westernization and assimilation, including crime, drugs, and declining moral values.”¹³³ “Cultural reactivism” happens when “cultural and religious

¹²⁸ Boyle et al. p. 49.

¹²⁹ Boyle et al., p. 54.

¹³⁰ Boyle et al., p. 61.

¹³¹ Boyle et al., p. 56.

¹³² Kapteijns et al., p. 34.

¹³³ Gilbert, Lauren. Citizenship, Civic Virtue, and Immigrant Integration: The Enduring Power of Community-Based Norms (2009). *Yale Law and Policy Review*, 27, 335-398, p. 337.

views become more pronounced in the host society as a way to preserve a refugee or immigrant group's shared identity.”¹³⁴ Americans tend to define Somalis as “black,” which is perceived as disadvantageous and undesirable, which in turn motivates Somalis to establish an alternative identity based on religion or nationality rather than race.¹³⁵

Another reason Somalis attach strongly to Islam is that they have been historically divided by internal clan rivalries. The crisis of “Soomaalinimo” is the struggle over “‘Somaliness’” and its relationship to Islam.¹³⁶ In the United States, claiming a “collective identity as Muslims” is an important way to bridge clan conflicts and allow the mosque to become a “place where they can come together as one people.”¹³⁷

3. American Educational System

Somali immigrant families generally recognize that the best way for their children to escape poverty is through education,¹³⁸ but there is a difference between understanding this concept and putting it into effect. Somali families face five main educational obstacles: first, their children often begin school at a deficit; second, Somali refugees often live in impoverished areas and their children must attend subpar public schools; third, first generation immigrant parents are less able to involve themselves in their children's education; fourth, the children are moved to various schools in an attempt to find the best education; and fifth, youth are exposed to racism, classism and Islamophobia in mainstream schools.

¹³⁴ Gilbert, p. 375.

¹³⁵ Mulligan, p. 42.

¹³⁶ Kapteijns et al., pp. 32-33.

¹³⁷ Gilbert, p. 376.

¹³⁸ Kapteijns et al., p. 28.

Somali immigrant youth, and those born in the United States to refugee parents, begin their education at a serious deficit, trying to catch up to their peers rather than advancing with them. When Somali refugees first arrived in the twin cities, local high schools had to first teach illiterate students how to read and write Somali before they could tackle English.¹³⁹ Often, the students have missed several years of education and have a difficult time in age-appropriate classrooms when they arrive because they are unfamiliar with the methods and expectations of U.S. classrooms and most likely do not speak English.¹⁴⁰

It is well-recognized that the single best source of academic success derives from excellent schools.¹⁴¹ Unfortunately public education in inner-city areas is often plagued by poorly performing schools.¹⁴² Somali refugees who matriculate their children in local schools often find that because they live in impoverished areas, their children are enrolled in subpar public institutions that are ill equipped to help their children catch up. Without high quality schools, Somali youth are at a disadvantage in this culture unless there is adequate outside intervention.

Studies have shown that learning success can be improved by parent involvement and a “strongly connected ethnic community, which supports parental values and behaviors.”¹⁴³ Unfortunately, first generation immigrant parents are less able to involve themselves in the schools for a variety of reasons. First, many Somali refugees do not

¹³⁹ Temple-Raston, Dina. Minneapolis Somalis Disappear. *National Public Radio*. (March, 2009)

¹⁴⁰ Kapteijns et al, p. 21.

¹⁴¹ Kapteijns et al, p. 25.

¹⁴² Abdi, p. 99.

¹⁴³ Kapteijns et al., pp. 26-27.

speak English or are illiterate. They cannot communicate with teachers and administrators in the school, nor can they help their children with homework.¹⁴⁴ Second, Somali adults come from an educational system in Somalia where parents do not need to be involved in their children's education because they have complete respect for, and trust in, the schools and teachers.¹⁴⁵ Third, Somali parents tend to work multiple jobs and do not have time to participate in their child's schooling. This lack of involvement by parents and elders can contribute to an academic disparity between Somali youth and their mainstream peers.

Somali parents want the best available schools for their children and will sometimes switch schools within a district, move to inner ring suburban neighborhoods, or send their children to Somali charter schools as a means to achieving this goal. Educational mobility, even to higher quality schools, can detrimentally affect kids who lose credits and must adjust to a new school culture each time they are moved.

Somali youth experience some of their greatest cultural conflicts at school. Inner city schools are sources of racism and Islamophobia, while suburban schools add class issues to the aggregate of discriminatory treatment. But even in charter schools, where most youth are Somali, there are fights about what it means to be a good Somali or good Muslim.¹⁴⁶

¹⁴⁴ Alitolppa-Niitamo, Anne. The Generation In-between: Somali Youth and Schooling in Metropolitan Helsinki. *Intercultural Education*. Vol. 13, No.3, 2002 (p. 279).

¹⁴⁵ Kapteijns et al, p. 31.

¹⁴⁶ Gilbert, p. 378.

C. Assimilation and the Somali/Western Split

There are competing theories about how immigrants should integrate into American culture. Historically, assimilation in the United States has been a one-way process, with the minority or immigrant group expected to adapt to the core culture while the core culture remained largely intact.”¹⁴⁷ American core culture is generally understood to be Anglo-Saxon, Protestant, and middle class.¹⁴⁸ The traditional view is that immigrants who choose not to follow American “national and cultural values are a potentially destabilizing force.”¹⁴⁹ This expectation of assimilation helps explain why Somali elders believe assimilation into the American core culture is a “threat to the very survival of Somali people” because, in fact, integration does mean loss of Somali cultural and religious identity.¹⁵⁰

Finding a healthy way to integrate into a foreign culture is a challenge, especially for Somalis, who live in segregated communities with religious and cultural differences from the mainstream culture. Integration is more difficult for Somali youth because of “struggles with language, perceived and real discrimination, cultural incompatibilities, and conflicts between adults and children.”¹⁵¹

Fortunately, recent scholarship suggests that immigrants do not have to “disappear in the American melting pot through complete assimilation,” but can acculturate by

¹⁴⁷ Gordon, Milton. *Assimilation in American Life: The Role of Race, Religion and National Origins* (1964) (70 – 74.)

¹⁴⁸ Abdi, p. 92.

¹⁴⁹ Gilbert, p. 339.

¹⁵⁰ Gilbert, p. 374.

¹⁵¹ Mulligan, pp. 39.

“gaining competence within more than one cultural setting.”¹⁵² Canada has adopted a model called “multicultural accommodation” or the “bicultural” model where ethnic groups who live in “cultural enclaves” have freedom to rule the internal affairs of their own communities.¹⁵³ Biculturalism enables Somalis to “choose which values of American culture to accept and which to reject, in a country in which it still is possible to be both Somali and a U.S. Citizen.”¹⁵⁴

Theorists in Canada believe that multicultural accommodation is the most “culturally sensitive approach to immigrant integration.”¹⁵⁵ Biculturalism, if instituted properly, can allow youth to develop high self-esteem and positive ethnic identity. Successful acculturation is now measured “in terms of the high-quality relationships young people develop in both their own ethnic and the mainstream domains.”¹⁵⁶

However, problems arise when there is a dissonant rather than consonant path to cultural accommodation. In consonant acculturation, parents and children adapt to U.S. culture and society at the same speed and in the same ways. In dissonant acculturation, the youth adapt quickly to American culture, but the parents do not. Dissonant acculturation, common in Somali communities, can turn children into “caretakers and translators for their parents’ and creates intense generational conflict because the parents

¹⁵² Kapteijns et al., p. 23.

¹⁵³ Gilbert, p. 347.

¹⁵⁴ Gilbert, p. 397.

¹⁵⁵ Gilbert, p. 347.

¹⁵⁶ Kapteijns et al., p. 25.

feel “powerless and dependent.”¹⁵⁷ When this scenario occurs, “youth may get caught (or lost) between the values of the majority culture and those of their parents.”¹⁵⁸

Somali teens struggle with trying to follow “two sets of cultural norms and expectations” where they want to identify strongly as Somali, but also want to fit in with Western peers and culture.¹⁵⁹ Some youth adapt easily to Western culture and move away from traditional Somali culture, others move between both worlds (albeit uneasily at times), but some teens develop an “oppositional identity or adversarial consciousness” because the youth feels Western culture is an alienating force which undermines his identity as a Somali or Muslim.¹⁶⁰

When Somalis do not acculturate into the white middle class structure, they “slip into the American underclass and permanent poverty,”¹⁶¹ because higher education and most lucrative careers require some measure of conformity to the core culture (language, dress, social norms). Most of the young men involved in this case struggled with the disparities between their Somali culture (where they felt safe) and the Western culture (where they never felt they truly fit in). These young men have few adults in their families who have succeeded by Western standards: they did not receive role modeling and guidance about how to pursue college educations and more lucrative careers. Many felt hopeless about a perceived lack of options for upward mobility or success within the United States.

¹⁵⁷ Kapteijns et al., p. 24.

¹⁵⁸ Kapteijns et al., p. 23.

¹⁵⁹ Degni, Filio, Seppo Pontinen & Mulki Molsa, “Somali Parents’ Experiences of Bringing up Children in Finland: Exploring Social-Cultural Change within Migrant Households,” *Forum: Qualitative Social Research*, 7 (2006): 2 (Para. 47)

¹⁶⁰ Kapteijns et al., p. 22.

¹⁶¹ Kapteijns et al., p. 22.

1. Identity Crisis

Social psychologist Erik Erikson coined the term “identity crisis” in his landmark work “Childhood and Society,” which explained the social significance of childhood and his conclusion that young people face identity confusion from the age of 12-18 as they try to become adults.¹⁶² “For immigrant and minority youth, part of this development of identity involves an ‘intensified exploration of the meaning of one’s ethnicity’ and the ‘special task to negotiate a balance between two value systems: that of their own group and that of the majority.’”¹⁶³

Somali parents in the United States fear “losing their children to a consumerist and individualistic American culture,” and they sometimes attempt to prevent that loss by “emphasizing Islam as central to their children’s identities as moral, successful, and Somali human beings.”¹⁶⁴ In the Somali community, youth want to honor their families, but they also want to be a part of mainstream society, which creates a “crisis of belonging” because they do not know which group they belong to.¹⁶⁵ If the process of discovering identity is “highly conflicted due to cultural friction with parents or discrimination by the mainstream, it can lead to a host of problems, among them stress, low self-esteem, anger and oppositional behavior, ‘ethnic identity crisis,’ ‘identity deficit’ (when a youth no longer knows what to do), or ‘marginalization’ (the rejection of both domains.)”¹⁶⁶

Somali youth must also face “social barriers, such as anti-immigration sentiment,

¹⁶² Eriksen, Erik. *Childhood and Society*. W.W. Norton, 1950, 1963, 1985.

¹⁶³ Kapteijns et al., p. 24.

¹⁶⁴ Kapteijns et al., p. 32.

¹⁶⁵ Richardson, p. 49.

¹⁶⁶ Kapteijns et al., p. 24. Citing Oppedal, B., Roysamb, E., and Lacklandsam, D., “The Effect of Acculturation and Social Support on Change in Mental Health among Young Immigrants [Norway].”

prejudice and racism”¹⁶⁷ which can cause young Somalis to question their identities.¹⁶⁸ In a study examining English speaking Somali youths who had arrived in the United States as children, the researchers found that while “post-resettlement stress, acculturative stress, and perceived discrimination... significantly contributed to the prediction of PTSD symptoms,... perceived discrimination was the strongest predictor of depressive symptoms in this sample.”¹⁶⁹ Perceived discrimination for adolescent can involve being treated less respectfully than other people, being treated as unintelligent, and being insulted.¹⁷⁰

Even Somali youth who appear to be succeeding academically and professionally struggle to balance their Somali identity with their American identity because “they are constantly treated like outsiders at school and at work, despite the fact that they have lived most of their lives in the United States.”¹⁷¹ They “grow tired of what they perceive to be a stagnant situation and they develop a desire to do something meaningful with their lives.”¹⁷²

Where a youth struggles with “perceived discrimination” and deprivation “because of the position of an individual’s group relative to that of other groups,” the youth can feel his path “has been blocked to a desired goal that [his] group deserves and that others possess.”¹⁷³ Research shows that experiences of injustice are a strong cause of

¹⁶⁷ Alitolppa-Niitamo, p. 287.

¹⁶⁸ Richardson, p. 11.

¹⁶⁹ Ellis, B., MacDonald, H., Lincoln, A., & Cabral, H. (2008). Mental Health of Somali Adolescent Refugees: The Role of Trauma, Stress, and Perceived Discrimination. *Journal of Consulting and Clinical Psychology*, 76, (184 – 193), p. 190.

¹⁷⁰ Ellis et al., p. 188.

¹⁷¹ Richardson, p. 68.

¹⁷² Richardson, p. 68.

¹⁷³ Moghaddam, Fathali. The Staircase to Terrorism: A Psychological Exploration. *American Psychologist*. (February – March, 2005), p. 163.

“nonnormative actions,” which can be remedied when “paths to individual mobility are seen to be open.”¹⁷⁴ “Blocked mobility seemed to produce a feeling of unfulfilled ambition among Somali recruits, and, by default, a desire to do something notable and become someone important.”¹⁷⁵

2. Recruitment/Vulnerability

Individual reasons for joining terrorism are too varied to categorize and in fact the “outstanding common characteristic of terrorists is their normality.”¹⁷⁶ “However, it is generally agreed that becoming radicalized is a multi-step process. Research has shown that “...the path to radicalization often involves a search for identity at a moment of crisis.”¹⁷⁷ “Instead of categorizing terrorists according to personality, then, it makes more sense to step back and look at the events that might prompt individuals to start down the path to radicalization in the first place. Social identity theory can be highly useful when taking this approach.”¹⁷⁸

According to social identity theory, individuals begin to investigate radical Islamist ideologies after they experience a “cognitive opening,” which opens a young person up to alternative belief systems.¹⁷⁹ “Any number of events can spark a cognitive opening, but usually these events are related to individuals’ social identity.”¹⁸⁰ Individuals who do not identify with any cultural group are particularly vulnerable to radicalization because they

¹⁷⁴ Moghaddam, p. 164.

¹⁷⁵ Richardson, p. 47.

¹⁷⁶ Richardson, p. 9.

¹⁷⁷ Richardson, p. 12. Citing Tufyal Choudhury, *The Role of Muslim Identity Politics in Radicalization: A study in Progress* (London: Department for Communities and Local Government, April 2007), 21.

¹⁷⁸ Richardson, p. 10.

¹⁷⁹ Richardson, p. 6.

¹⁸⁰ Richardson, p. 10.

are searching for somewhere to belong.”¹⁸¹ An identity crisis “leaves the individual torn between two identities, neither of which they fit into. This gap leaves the young person vulnerable to *jihadist* recruiters who offer them an identity that transcends these two competing worlds in favor of an exciting and seemingly meaningful identity of *Jihadist*.”¹⁸²

A cognitive opening can also stem from a crisis, including “loss of a job, blocked mobility, a sense of cultural weakness, racism, humiliation, political repression, torture, and political discrimination” plus death in the family or becoming a crime victim.¹⁸³ If young Somalis do not see “possibilities for individual mobility and do not feel that they can adequately influence the procedures through which decisions are made, theybegin to see terrorism as a justified strategy.”¹⁸⁴ And as “long as conditions are perceived to be unjust and hopeless” they can be influenced to participate in terrorism.¹⁸⁵

When young Somalis fail to find support from either their own ethnic or the mainstream culture, it is suggested that “peers may exercise such a dangerously large influence that they may even turn to” treacherous groups as substitute families.¹⁸⁶ Through outreach efforts, recruiters socialize with young activists in an attempt to ‘break down calcified preconceptions about the role of Islam so that individuals become amenable to

¹⁸¹ Richardson, p. 14. Citing Mirella L. Stroink, “Processed and Preconditions Underlying Terrorism in Second-Generation Immigrants,” *Peace and Conflict: Journal of Peace Psychology* 13, no. 3 (2007): 301-302

¹⁸² Mulligan, p.45.

¹⁸³ Richardson, p. 11.

¹⁸⁴ Moghaddam, p. 162.

¹⁸⁵ Moghaddam, p. 167.

¹⁸⁶ Kapteijns et al., p. 24.

discussing the possibility of new interpretations.”¹⁸⁷ Peers who are “further along the path to violence or who are willing to explore it with them, can help them cross the line from venting their anger to becoming terrorists.”¹⁸⁸ “Ethno-nationalist terrorist organizations target diaspora communities, knowing that individuals in these communities are struggling to find their identity. These organizations present vulnerable individuals with an alternative identity, one that will make them feel important and give them a purpose in life.”¹⁸⁹

The young men facing sentencing in this case struggled with identity issues created by cultural conflict and hopelessness. None of these young men were able to find meaning and hope within the context of American culture.

3. Deradicalization

The United States finds itself at the crossroads in its efforts to help integrate a very new, very large Somali immigrant population. Cawo Abdi writes that there are two things policymakers can do to help Somalis integrate more successfully: first, to create “better-funded programs to build migrant and refugees’ meager human capital,” and second to “invest in programs that promote a better understanding of what it means to be an American, with knowledge of the beauty as well as the ugly scars in the history of this great nation...”¹⁹⁰ She believes that failure to provide these types of programs will “lead to

¹⁸⁷ Richardson, pp. 11-12.

¹⁸⁸ Richardson, p. 16 (*citing* Sageman, Marc. *Leaderless Jihad: Terror Networks in the Twenty-First Century*. Philadelphia, PA: University of Pennsylvania Press, 2008 (pp. 84-88)

¹⁸⁹ Richardson, p. 76.

¹⁹⁰ Abdi, *Somali Struggles*, p. 104.

limited immigrant engagement with the greater society” which will “entrench their marginalization and undermine their participation in the political process.”¹⁹¹

“The best long-term policy against terrorism is prevention, which is made possible by nourishing contextualized democracy on the ground floor.”¹⁹² “Local cultural practices and symbolic systems need to be incorporated and used to enable greater legal opportunities for voice and mobility, as well as to influence perceptions of available opportunities.”¹⁹³ Matthew Richardson writes that “efforts to mitigate radicalization within this community should start at the discrimination stage.”¹⁹⁴

Adolescent brains are undeveloped and therefore more open to change. The radicalization process is something that happens more frequently with youth and young adults, which means that a deradicalization process is likely to be more successful at this age as well. Adolescents have reduced culpability because they are naturally predisposed to impulsive decision making, negative peer influence, and have a greater capacity to change their behavior later in life. These are all traits ISIS targets when recruiting. The Court should consider these factors when sentencing adolescents for ISIS related offenses.

IV. VULNERABILITY OF ADOLESCENTS

As stated above, ISIS is notorious for its sophisticated understanding of propaganda. ISIS’ propaganda machine includes an entire production company (al Hayat “Life”) dedicated to western audiences. The group publishes an English language

¹⁹¹ Abdi, Somali Struggles, p. 104-105.

¹⁹² Moghaddam, p. 161.

¹⁹³ Mogghadam, p. 167.

¹⁹⁴ Richardson, p. 77.

magazine exploring topics such as the religious duty to travel to Iraq and Syria.¹⁹⁵ Over 71 Americans have faced charges crimes related to supporting ISIS.¹⁹⁶ Since the report has been published, the number has increased as stated earlier in this memorandum. The average age of an American Islamic State recruit is 26.¹⁹⁷ Over a third are under the age of 21.¹⁹⁸ ISIS recruits cite a variety of motivations for their activities.¹⁹⁹ ISIS recruitment is not limited to social media but in many cases includes face-to-face interaction.²⁰⁰ ISIS strives to appeal to a young western audience.

A. Culpability of an Adolescent

All the defendants in the instant case are above the age of 18. However, they are young and as such the following analysis is important when understanding their motivations. The Supreme Court has distinguished an adolescents' culpability from that of an adult.²⁰¹ None of the factors distinguishing adolescent culpability are crime specific.²⁰² The same concerns noted by the Court over juvenile death and life-without-parole sentences, are also present, to the same degree over other lengthy sentences.²⁰³ The

¹⁹⁵ *The Islamic State's (ISIS, ISIL) Magazine*, The Clarion Project, Sept. 2014, available at <http://www.clarionproject.org/news/islamic-state-isis-isil-propaganda-magazine-dabiq#>.

¹⁹⁶ *ISIS In America; From Retweets to Raqqa*, ISIS In America Reports (George Washington University/Program on Extremism, Washington D.C.), Dec. 2015 at 5 (hereinafter, *GWU report*).

¹⁹⁷ *GWU report*, at 5.

¹⁹⁸ *Id.*, at 7.

¹⁹⁹ *Id.* at ix.

²⁰⁰ *Id.*

²⁰¹ *Miller v. Alabama*, 132 S. Ct. 2455, 2464 (2012); *Graham v. Florida*, 560 U.S. 48, 76 (2010); *Roper v. Simmons*, 543 U.S. 551, 569 (2005).

²⁰² *Miller*, 132 S. Ct. at 2465.

²⁰³ See e.g. David O. Brink, *Immaturity, Normative Competence, and Juvenile Transfer: How (Not) to Punish Minors for Major Crimes*, 82 Tex. L. Rev. 1555 (2004); Barry C. Feld et. al., *Adolescent Competence and Culpability: Implications of Neuroscience for Juvenile Justice Administration*, in Stephen Morse & Adina Roskies, eds., *A Primer on Criminal*

Supreme Court recognizes three factors reducing adolescents' culpability, (1) a lack of maturity and underdeveloped sense of responsibility often resulting in impetuous decision-making, (2) adolescents are more susceptible to negative influence through peer pressure, and (3) adolescents' character is more transitory than that of an adult.²⁰⁴ These factors are supported by both neuroscience and developmental psychology.²⁰⁵

Developmental psychologists agree with the Court that differences between adult and adolescent decision-making should translate into differences in sentencing.²⁰⁶

B. Impulsive Decision Making

The Supreme Court notes that “children have a ‘lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking’”.²⁰⁷ A plethora of developmental psychology studies have noted adolescents' deficiency in rational decision making.²⁰⁸ These studies confirm adolescents have a strong tendency to over-value rewards and under-value risk when making decisions.²⁰⁹

Differences in adolescent decision-making and risk assessment are partially

Law and Neuroscience (New York: Oxford University Press, 2013), at 183 (hereinafter Feld, *Adolescent Culpability*).

²⁰⁴ *Roper*, 543 U.S. at 569–70.

²⁰⁵ See e.g. Feld, *Adolescent Culpability*; Elizabeth S. Scott & Laurence Steinberg, *Blaming Youth*, 81 Tex. L. Rev. 799, 811–19 (2003) (hereinafter, Scott & Steinberg, *Blaming Youth*).

²⁰⁶ Scott & Steinberg, *Blaming Youth* at 839—40.

²⁰⁷ *Miller*, 132 S. Ct. at 2465 (quoting *Roper*, 543 U.S. at 569).

²⁰⁸ Elizabeth Cauffman & Laurence Steinberg, *(Im)maturity of Judgment in Adolescents: Why Adolescents May Be Less Culpable Than Adults*, 18 Behav. Sci. & the L. 741, 744 (2000); Beatriz Luna & Charles Geier, *The Maturation of Incentive Processing and Cognitive Control* 93 Pharmacology, Biochemistry & Behavior 212, 218 (2009); Bernd Finger et. al., *Affective and Deliberative Processes in Risky Choice: Age Differences in Risk Taking in the Columbia Card Task*, 35 J. of Experimental Psychol.: Learning, Memory and Cognition 709, 728.

²⁰⁹ Feld, *Adolescent Culpability* at 192.

attributable to discrepancies in the brain itself.²¹⁰ Data generated from MRI scans has tracked the growth and eventual pruning of gray matter (cell dense material associated with cognition) in the human brain, while the amount of white matter (nerve dense material connecting brain regions) increases.²¹¹ This process begins at puberty and is used by scientists as a measure for neural maturity.²¹² This maturation process is not uniform across the brain, it begins in the parietal region, and ends at the frontal region during early adulthood.²¹³ Since the prefrontal cortex is the region of the brain most associated with reasoning and decision-making, its late development explains some of the delay between adult cognitive ability and mature decision-making.²¹⁴

The development of the MRI scan allows scientists to map neural activity across the brain's regions and reveal functional differences between adults and adolescents when making decisions. In both adolescents and adults, the ventral striatum is strongly associated with considering reward, while the prefrontal cortex has a strong association with the cognitive control associated with decision optimization.²¹⁵ Neuroimaging has

²¹⁰ Feld, *Adolescent Culpability* at 188—194; Laurence Steinberg, *A Behavioral Scientist Looks at the Science of Adolescent Brain Development*, 72 *Brain & Cognition* 160, 160 (2010).

²¹¹ Miya R. Asato et. al., *White Matter Development in Adolescence: A DTI Study*, 20 *Cerebral Cortex* 2122, 2122 (2010); Elizabeth Sowell et. al., *Mapping Changes in the Human Cortex Throughout the Span of Life*, 10 *The Neuroscientist* 372, 374—75 (2004).

²¹² *Id.*

²¹³ Peter R. Hurtenlocher & Arun S. Dabholkar, *Regional Differences in Synaptogenesis in Human Cerebral Cortex*, 387 *J. of Comp. Neurology* 167, 177—78.

²¹⁴ Feld, *Adolescent Culpability* at 189—90; Laurence Steinburg, *Risk Taking in Adolescence: New Perspectives from Brain and Behavioral Science*, 16 *Current Directions in Psychol. Sci.* 55, 57—58 (2007).

²¹⁵ Feld, *Adolescent Culpability* at 191. Sarah Durston et. al., *A Shift From Diffuse to Focal Cortical Activity With Development*, 9 *Devel. Sci.* 1, 5 (2006); Vinod Venkatraman et. al., *Separate Neural Mechanisms Underlie Choices and Strategic Preferences in Risky Decision Making*, 62 *Neuron* 593, 597—599 (2009).

revealed that when faced with a risky decision, adolescent's ventral striatum shows greater activity than an adult's.²¹⁶ Conversely, adolescents show a more diffused response in the prefrontal cortex than adults.²¹⁷ Showing that at a neurobiological level adolescents present a greater response to reward, and a lessened capacity for decision optimization.²¹⁸

The decision to travel to Iraq or Syria is by any measure fraught with risk. Many western recruits are killed or captured. ISIS does not try to hide this, instead they emphasize that the journey offers western recruits the opportunity to martyr themselves.²¹⁹ Over a quarter of those charged in the U.S., expressed an "interest" in martyrdom.²²⁰ Young people, especially young westerners, choose to affiliate with ISIS for varied and intensely personal reasons.²²¹ An ongoing University of Chicago Study has recognized this and is conducting MRI scans on ISIS recruits to understand what part of ISIS' message entices them.²²² Contributing to a motivation to express their own identity, a third of ISIS recruits in the United States still lived with their parents prior to their activities.²²³ In the

²¹⁶ Feld, *Adolescent Culpability* at 191-192; Venkatraman et. al., *supra*, at 599.

²¹⁷ Durston et. al., at 5.

²¹⁸ Feld, *Adolescent Culpability* at 191-192; Venkatraman et. al., *supra* ; Durston et. al., *supra*, at 5.

²¹⁹ Peter Van Buren, *Islamic State's rules of Attraction and why U.S. Countermeasures are Doomed*, Reuters, Oct. 25. 2014, available at <http://blogs.reuters.com/great-debate/2014/10/21/islamic-states-rules-of-attraction-and-why-u-s-countermeasures-are-doomed/>.

²²⁰ *Case by Case; ISIS Prosecution in the United States*, Research and Findings (Center on National Security at Fordham Law, New York, N.Y.), Jul, 2016, at 4 (hereinafter, *Case by Case*).

²²¹ *Understanding Jihadists, In Their Own Words*, The White Papers (Quantum Communications, Harrisburg PA) Apr. 2015, at 8 (hereinafter *Understanding Jihadists*).

²²² Robert L. Basick, *UChicago Study Explores How ISIS Lights up the Brains of Recruits*, UChicago, Social Sciences Division, available at <https://socialsciences.uchicago.edu/story/uchicago-study--explores-how-isis-lights-brains-recruits>.

²²³ *Case by Case* at 22.

eyes of these recruits, joining ISIS offers an opportunity to forge their own identity.²²⁴ An adolescent mind is more prone to see the serious risks involved in this affiliation as outweighed by the perception of personal fulfillment the group offers.

C. Increased Risk of Negative Peer Influence

The Supreme Court has noted “that juveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure.”²²⁵ What the Supreme Court saw as a common-sense notion, is robustly supported by developmental psychology.²²⁶ Adolescents are much more likely than adults, to commit crimes in groups.²²⁷ Studies confirm that the mere presence of peers causes adolescents to engage in riskier behavior.²²⁸ Older peers play an especially insidious role in leading adolescents to criminal activity.²²⁹

As with risk taking, adolescent vulnerability to peer influence has also been

²²⁴ See e.g. *Understanding Jihadists; Case by Case* at 22; see Arie W. Kruglanski et. al., *The Psychology of Radicalization: How Significance Quest Impact Violent Extremism*, 35 *Advances in Poli. Psychol.* 69, 73 (2014).

²²⁵ *Roper*, 543 U.S. at 569 (citing *Eddings v. Oklahoma*, 455 U.S. 104, 116 (1982)).

²²⁶ Laurence Steinburg & Kathryn C. Monahan, *Age Differences in Resistance to Peer Influence*, 43 *Devel. Psychol.* 1531, 1541 (2007); Nat’l Research Council, Comm. on Assessing Juv. Just. Reform, *Reforming Juvenile Justice: A Developmental Approach* 94 (Richard J. Bonnie et. al., eds. 2013) at (hereinafter, *A Developmental Approach*).

²²⁷ *A Developmental Approach* at 94.

²²⁸ Margo Gardner & Laurence Steinberg, *Peer Influence on Risk Taking, Risk Preference, and Risky Decision Making in Adolescence and Adulthood: An Experimental Study*, 41 *Developmental Psychol.* 626, 626–630 (2005).

²²⁹ David J. Harding, *Violence, Older Peers, and the Socialization of Adolescent Boys in Disadvantaged Neighborhoods*, 74 *Am. Sociol. Rev.* 445, 458 (2009); Jonathan Goldner et. al., *Exposure to Community Violence and Protective and Risky Contexts Among Low Income Urban African American Adolescents: A Prospective Study*, 40 *J. Youth and Adolescence* 174, 178 (2011).

confirmed by neuro-science.²³⁰ In both adults and adolescents, the amygdala is involved in deciphering the emotional significance of social cues, while the ventromedial prefrontal cortex is involved in social processing.²³¹ Neural imaging studies have shown that, in comparison to adults, adolescents have a higher amygdala recruitment and under-recruitment of the ventromedial prefrontal cortex.²³² In other words, the adolescent brain overreacts to social stimuli while it has a reduced mechanism for processing these same stimuli.

ISIS has contrived a recruitment strategy aimed at exploiting this particular attribute of adolescents.²³³ ISIS uses online propaganda to identify those believed susceptible to recruitment. ISIS then tries to lure these westerners to Iraq and Syria, primarily through establishing personal connections online and in person.²³⁴ Educators, and public health officials, have criticized similar tactics used by the United States military in schools, as being unfairly effective.²³⁵ Similarities between U.S. Army and ISIS recruitment aimed at

²³⁰ Feld, *Adolescent Culpability* at 193; Amanda E. Guyer et. al. *Amygdala and Ventrolateral Prefrontal Cortex Function During Anticipated Peer Evaluation in Pediatric Social Anxiety*, 65 Arch. Gen. Psychiatry 1303, 1307 (2008).

²³¹ *Id.*

²³² Feld, *Adolescent Culpability* at 193; Todd A. Hare et. al., *Biological Substrates of Emotional Reactivity and Regulation in Adolescence During an Emotional Go-NoGo Task*, 63 Biological Psychiatry 927, 932 (2008); Guyer et. al., *supra*.

²³³ Galloway, *supra*, at 5.

²³⁴ *Foreign Fighters, An Updated Assessment of the Flow of Foreign Fighters into Iraq and Syria*, Intel. Brief. (The Soufan Group, Washington D.C.), Dec. 2015, at 10; *See ISIS In America; From Retweets to Raqqa*, ISIS In America Reports (George Washington University/Program on Extremism, Washington D.C.), Dec. 2015 at 5 (hereinafter, *GWU report*).

²³⁵ John Merrow, *See e.g. U.S. Army Recruiters "Counseling" High Schoolers to Death*, 70 Education Digest 4 (2005); *Cessation of Military Recruiting in Public Elementary and Secondary Schools*, Pol'y Statement. 20123. (American Public Health Association, Washington D.C.), Oct. 30 2012, (hereinafter *APHA Policy Statement*).

adolescents include video games²³⁶, high gloss magazines²³⁷ and YouTube videos.²³⁸

D. Identity

The Supreme Court recognizes that the most important distinction between adolescents and adults, is the ability to grow; “[t]he relevance of youth as a mitigating factor derives from the fact that the signature qualities of youth are transient; as individuals mature, the impetuosity and recklessness that may dominate in younger years can subside.”²³⁹ Developing one’s own separate identity through experimentation and novelty-seeking behavior is a key feature of adolescence.²⁴⁰ Research shows that the vast majority of adolescent offenders will not reoffend in adulthood.²⁴¹ This trend holds true with serious and violent adolescent offenses.²⁴² Demonstrating that adolescents are both receptive to intervention and may simply grow out of their criminal careers.

²³⁶ Compare Paul Crompton, Grand Theft Auto: ISIS? Militants reveal video game, Al Arabiya English, Sept. 2014 (accessed at <http://english.alarabiya.net/en/variety/2014/09/20/Grand-Theft-Auto-ISIS-Militants-reveal-video-game.html>) with Hama Shazban, Playing War: How the Military Uses Video Games, The Atlantic, Oct. 10, 2013, accessed at <http://www.theatlantic.com/technology/-archive/2013/10/playing-war-how-the-military-uses-video-games/280486/>

²³⁷ Compare The Islamic State's (ISIS, ISIL) Magazine, The Clarion Project, Sept. 2014, accessed at <http://www.clarionproject.org/news/islamic-state-isis-isil-propaganda-magazine-dabiq#> with Homepage. Soldiers Magazine, accessed at <http://soldiers.dodlive.mil/>

²³⁸ Compare Brutal Islamofascist Terrorist Video Surfaces - Designed To Look Like A Hollywood Movie, <https://www.youtube.com/watch?v=Ks82zV77xuE> with Symbol of Strength-More than a Uniform, <https://www.youtube.com/watch?v=zRxBVMwFoU>

²³⁹ *Roper* 543 U.S. 551, 570 (2005) (quoting *Johnson v. Texas*, 509 U.S. 350, 368 (1993)).

²⁴⁰ *A Developmental Approach* at 90.

²⁴¹ *A Developmental Approach* at 90; See e.g. Terry E. Moffit, *Adolescence-Limited and Life-Course-Persistent Antisocial Behavior*, 100 Psych. Rev. 674 (1993); Howard N. Snyder, *Appendix Serious, Violent and Chronic—An Assessment of the Extent of and Trends in Officially Recognized Serious Criminal Behavior in a Delinquent Population*, in Rolf Loeber & David F. Farrington eds., *Serious & Violent Juvenile Offenders*, (SAGE Publications, Thousand Oaks CA, 1998) at 442-43 (hereinafter, Snyder, *Appendix*).

²⁴² Snyder, *Appendix*, at 442.

ISIS offers a pre-packaged identity to young recruits. This pull can be especially strong for second-generation adolescents who feel marginalized in the west. Many second-generation Muslim immigrants are already looking for ways to express Islam free from ethnic ties, which expresses solidarity with Muslims in the west from varied ethnic backgrounds.²⁴³ Consistent with data on adolescent criminal behavior, young jihadi recruits are amenable to de-radicalization programs and religious intervention.²⁴⁴ This shows that adolescent affiliation with extreme groups is more a passing symptom of youth than a strong conviction of adulthood.

The Supreme Court, developmental psychologists, and increasingly neuroscientists, recognize (1) impulsivity in decision-making, (2) vulnerability to peer pressure, and (3) transience of identity, distinguish adolescents in terms of sentencing. These traits are taken full advantage of in adolescent recruits by ISIS.

²⁴³ David Voas & Fenella Fleischmann, *Islam Moves West: Religious Change in the First and Second Generations*, 38 Annu. Socio. Rev. 525, 534 (2012).

²⁴⁴ John Horgan, *What makes a Terrorist Stop Being a Terrorist?*, 1 J. for De-radicalization 1, 2 (2014); Mubin Shaikh, *Countering Violent Extremism Online: An Anecdotal Case Study Related to Engaging ISIS Members and Sympathizers on Twitter*, 98 Soundings 478, 485-86 (2015).

CONCLUSION

We ask to Court to consider the role social media, age, identity issues, and recruitment tactics played in the offense conduct when issuing fair and reasonable sentences.

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